



UNITED STATES PATENT AND TRADEMARK OFFICE

CU
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,280	01/23/2004	Gary Malcolm Briscoe	7423	9687

7590 08/12/2004

Gauthier & Connors LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

EXAMINER

PICKETT, JOHN G

ART UNIT	PAPER NUMBER
----------	--------------

3728

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,280

Applicant(s)

BRISCOE, GARY MALCOLM

Examiner

Gregory Pickett

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. GB02/03408.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01232004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action acknowledges the applicant's Preliminary Amendment submitted 23 January 2004. Claims 1-11 are pending in the application.

Drawings

2. The drawings are objected to because Figures 1 & 2 have gaps in portions that would appear to be solid from the description in the specification. Also, notation 25 in Figure 2 has no lead line.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 11 is objected to because of the following informalities: "tat" in line 3 appears to be a typographical error. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites "a peripheral formation" in line 2. This limitation is vague and indefinite and it is unclear as to structure involved in the formation.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 2, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox (US 5,803,248).

Regarding claim 1, Cox discloses a blister pack **10** with a front part **14** having a recess **20** and a back part **16** having a relieved portion (as shown Figure 2). Cox discloses a locating means (see Figure 3) with abutments **35 & 36** cooperating to close the pack with the back part **16** wholly within the recessed portion of front part **14**.

As to claim 2, Cox discloses flange **30**.

As to claim 7, Cox discloses hinge **50**.

As to claim 9, Cox discloses plinth **36**.

6. Claims 1, 2, 5, 6, 10, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al (US 6,311,838).

Regarding claim 1, Johnson discloses a blister pack with a front part **10** having a recess (as shown, Figure 5) and a back part **20a** having a relieved portion **60**. Johnson discloses a locating means (see Figures 7a & 7b) with abutments **11 & (area between**

Art Unit: 3728

75 and 85) cooperating to close the pack with the back part **20a** wholly within the recessed portion of front part **10**.

As to claim 2, Johnson discloses flange **19**.

As to claim 5, Johnson discloses ridge **11**.

As to claim 6, Johnson discloses flange (area between 75 & 85).

As to claim 10, Johnson discloses a snap fit.

As to claim 11, Johnson discloses ridge **11** extending further than (area between 75 & 85).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 3728

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cox (US 5,803,248).

Cox, as applied to claim 1, discloses the claimed invention except for the translucent portion. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the blister pack of Cox with a translucent portion, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

8. Claims 1-7, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goulette (US 5,220,999) in view of Urciuoli et al (US 5,507,406).

Regarding claim 1, Goulette discloses a blister pack **10** with a front part **20** having a recess **22** and a back part **12** having a relieved portion **14**. Goulette discloses a locating means (see Figure 4) with abutments **34 & 36** cooperating to close the pack.

Goulette lacks, or does not expressly disclose the back portion wholly within the front part.

Urciuoli discloses a closure means with a back part **250** having abutment 252 wholly within a front part **210** and abutment **213**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the blister pack of Goulette with a closure means as taught by Urciuoli in order to indicate when the container has been opened.

As to claim 2, Goulette discloses flange **28**.

Art Unit: 3728

As to claim 3, Goulette discloses aperture **18**.

As to claim 4, Urciuoli discloses peripheral formation **228**.

As to claim 5, Urciuoli discloses ridge **228**.

As to claim 6, Urciuoli discloses flange **253**.

As to claim 7, Goulette discloses hinge **30**.

As to claim 9, Urciuoli discloses plinth **221**.

As to claim 10, the pack of Goulette-Urciuoli discloses a snap fit (see Urciuoli, Abstract).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyake discloses a blister pack with translucent portions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 703-305-8321. The examiner can normally be reached on Mon-Fri, 9:30 AM - 6:00 PM.

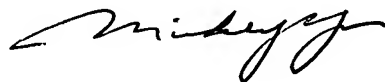
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory Pickett
Examiner
28 July 2004



Mickey Yu
Supervisory Patent Examiner
Group 3700